



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Sm

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/439,523	11/12/99	LIN	G LSI-4

QM02/0801

CRAIG N KILLEN
NELSON MULLINS RILEY & SCARBOROUGH LLP
P O BOX 11070
COLUMBIA SC 29211-1070

EXAMINER

CLARKE, S

ART UNIT

PAPER NUMBER

3743

7

DATE MAILED: 08/01/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/439,523

Applicant(s)
Lin

Examiner
Sara Clarke

Group Art Unit
3743



☒ Responsive to communication(s) filed on Jul 5, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) 2, 3, 5, 6, 10, 11, 13-20, 22, and 23 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 4, 7-9, 12, 21, and 24 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3743

DETAILED ACTION

Election/Restriction

Applicant's election of Species IV in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Specification

The applicant is reminded that in the preferred format for the specification, as set forth in MPEP 608.01, metric units should be used. English units, if used, should follow the metric units.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 7, and 9 are rejected under 35 U.S.C. 103(a) as unpatentable over LaForest et al. (US 5854530) in view of Sandhaus (US 4442945). LaForest et al.

Art Unit: 3743

discloses the invention substantially as claimed with the exception of at least 10 pounds of force being required to operate the thumb actuator. The problem the applicant is trying to solve according to his specification by requiring at least 10 pounds of force is to enhance the child resistance characteristics of the lighter. See page 8, lines 24-28 of the specification. The Sandhaus reference is reasonably pertinent to this particular problem (and is accordingly analogous prior art) because it discloses mechanism for resisting operation by a child. Sandhaus also teaches that it is preferable that the resistance force be in the range of 10-12 pounds such that an elderly person can operate the mechanism but a child cannot. See column 7, lines 28-39. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have provided the springs of the lighter of LaForest et al. with a resistance of at least 10 pounds force as taught by Sandhaus such that an elderly person can operate the mechanism but a child cannot.

In the alternative, claims 1, 4, and 7-9 are rejected under 35 U.S.C. 103(a) as unpatentable over LaForest et al. alone. The applicant teaches on page 8, line 22 that standard piezoelectric lighters require 4-5 pounds of force for actuation. LaForest et al. teaches the provision of an extra resistant spring 50 to discourage undesirable operation by young users. The applicant's recitation of "at least ten pounds of force" being required to operate the lighter (claim 1) presents no novel or unexpected results over what is disclosed in the LaForest et al. reference. Likewise, the applicant's

Art Unit: 3743

recitation of a spring contributing at least five pounds of the at least ten pounds (claim 8) presents no novel or unexpected results over the extra resistant spring disclosed in the LaForest et al. reference. Furthermore, the applicant has not presented any evidence that such differences unexpectedly solve some problem or provide some new result in the art. Therefore, the use of such a specific force requirement in lieu of the additional resistance disclosed in LaForest et al. would have been an obvious matter of design choice to one of ordinary skill in the art, and as such the claims do not patentably distinguish over the applied art at time of applicant's invention as one skilled in the art would have considered the change as an obvious matter of design choice.

Claim 12 is rejected under 35 U.S.C. 103(a) as unpatentable over LaForest et al. and Sandhaus as applied to claim 1 above, and further in view of Goto (US 4089636). LaForest et al. and Sandhaus disclose the invention substantially as claimed with the exception of a housing end cap. Goto discloses a lighter and teaches the use of a cap 9 for mounting the cap 2 and the electrode. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the lighter of LaForest et al. and Sandhaus with a cap as taught by Lee for mounting the various mechanisms.

Claims 21 and 24 rejected under 35 U.S.C. 103(a) as unpatentable over LaForest et al. in view of Sandhaus and Goto. See the rejections of claims 1 and 12

Art Unit: 3743

above. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have provided the springs of the lighter of LaForest et al. with a resistance of at least 10 pounds force as taught by Sandhaus such that an elderly person can operate the mechanism but a child cannot. Alternatively, the use of such a specific force requirement in lieu of the additional resistance disclosed in LaForest et al. would have been an obvious matter of design choice to one of ordinary skill in the art, and as such the claims do not patentably distinguish over the applied art at time of applicant's invention as one skilled in the art would have considered the change as an obvious matter of design choice. Goto further teaches providing a head cover 2 to keep dirt and dust out. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the lighter of LaForest et al. with a cap having a head cover pivotally connected thereto as taught by Goto for mounting the various mechanisms and to keep out dirt and dust.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yeh (US 6077071), Lee (US 5971751), and Ebine et al. (US 3540823) disclose various lighters.


Art Unit: 3743

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Clarke whose telephone number is (703) 308-1388. The examiner normally can be reached on weekdays from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The facsimile number for this group is (703) 305-3463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-0861.


Sara Clarke
Patent Examiner
Art Unit 3743

July 31, 2000